CHAPTER - V
INTRODUCTION

Here we will study as to when, how and where the reformation of prisoners came to be recognized as separate subject and drawing the attention of criminologists and sociologists asserting that the offenders are to be restored back to society as socialized human beings and are able to contribute to the common good. We are now going to look back in history of prison system.

The words 'Prison' and 'Goal' derive from the Latin words meaning respectively 'to seize and' a cage. The oxford English Dictionary defines prison as, "A place properly arranged and equipped for the reception of persons who by legal process are committed to it for safe custody while awaiting trial or for punishment." Whatever may be the official designation as jail, work-house, Reformatory, penitentiary, state prison, house of correction, or whatever else, it is a place where the punishment of imprisonment is executed.

If we trace back the history of societies, imprisonment was rarely used as a penalty. Similarly the penalty of imprisonment hardly ever occurred in early Greece, and it was not used at all in the Roman Republic, but was used for minor offences in the Roman Empire.

The prison on the other hand, functions largely for the protection of the society and its interests by downgrading the prisoner, rather than protecting his social status. The difference of course, is largely on the difference between the conception of illness as involuntary and accident, and the attribution of freedom of the will and moral turpitude to the criminal.
Donald R. Cressey made comparison between mental hospital and prison, says "In general, prisons, like mental hospitals, are seen as performing an integrative function for society. Usually they are said to do this by incapacitating criminals, thus directly protecting the society from them, by punishing them, thus protecting society both by reinforcing the system's anti-criminal values and by deterring potential criminals, and by reforming them, thus protecting society by restoring social integration".\(^6\)

In our Vedic civilization full faith in the basic goodness of man was relied on to atone for any injury caused in the feelings of others were used with confidence in maintaining social peace. The offender after atonement was restored to his original post, prestige, status, vocation and life, without any stigma. Physical pain, torture, capital punishment, etc, were not even recognized as forms of punishment.

In the medieval period the rulers assumed to themselves all the authority from primary hearing to appeal from apprehension and trial to execution of punishment. The ruler set himself as the all powerful authority and master of events. "The most common form of punishment at that time was death, mutilation, public humiliation, fines, forfeiture of property, banishment, transportation and imprisonment."\(^7\)

It was only in the middle of nineteenth century that imprisonment became the main form of punishment. Cantor observed "imprisonment is the modern major method of disposing serious offenders. It is difficult to imagine surrendering this method. It was just as difficult to surrender the practice of torture in the middle ages of public execution for every felony in England. A brief sketch of the methods of punishment in the past will show how firmly different ages clung to those current practices which to us today appear utterly barbaric."\(^8\)
If we go through the history and development of theory of reformation of offenders we may get a theoretical background of the appropriate legal mechanism and administrative policy and steps for reformation of prisoners in the administration of criminal justice system.

Keeping away the criminals from the society is a primary function of all civil states. The major problems which are engaging the attention of penologists today, whether the traditional forms of punishment should remain or primary weapons in restraining criminal behaviour or should be supplemented and even replaced by a much more flexible or diversified combination of measures of treatment of a reformative, curative, and protective nature. Punishment should not be merely an act of social disapproval of the wrong done by the offender; it should be method of reducing the incidence of criminal behaviour either by deterring and preventing them from criminal activities, as it is need for the protection of the moral order, be something definitely good and useful.

There are three different punishments of offenders, varying from age-old tradition to modernism, which are generally called as Theories of Punishment, namely, Retributive, Deterrent and Reformative Theories.

Retributive Theory:-

The Retributive theory is based on retributive justice which suggests that evil should be returned for evil without any regard to consequences. It is based on the fulfillment of moral justice. A good action deserves to be crowned with a good reward and a bad action, on the other hand meets its own fate. It is initially based on theory of revenge. We are to observe that the Lex Telionis; an eye for an eye, a tooth for a tooth, this kind of punishment has no place in modern penology. This theory did not treat punishment as an interment for securing welfare of the society.
Deterrent Theory:-

The deterrent theory creates some kind fear in the mind of other persons from committing similar offences by giving adequate penalty and exemplary punishment to offenders. The deterrent theory as a means of punishment fails in cases of hardened criminals and also of ordinary criminals the severity of punishment has no effect on them. They prefer to remain in prisons. This context finds support from the fact that when capital punishment was being publicly awarded in public places, many people committed crimes of pick-pocketing, theft, assault even revenges in the form of murder, in the men-packed gatherings. In early times the society was influenced of evil spirit, so the society preferred severe and deterrent punishment. But today’s modern penologist discards this type of severe punishment on humanitarian grounds.

Reformative Theory:-

With the changing ideas of modern society, the thinking of penologists towards punishment has also undergone radical changes in penal system. Reformative theory condemns all kinds of retributive and deterrent punishments. The main motive of the reformist theory is rehabilitation of inmates in penal-correctional institutions so that they can be return to society as law abiding citizen.

The reformative theory implies that the offender should while punished by detention, be put to educative and healthy or ameliorating influences. He should be re-educated, and his character traits be re-shaped and put ones again in the furnace for being moulded. Reformatory punishment may mean either that the offender is reformed while being punished, or that he is reformed by the punishment itself qua the punishment.11

Punishments should not be made an ideal farce, and prisons should not be made comfortable hotels where shamelessness may be caused. Hard work under
healthy conditions, the development of a love for work, payment of wages according to the quantity and quality of the work done and re-educating of personality trait are the most important matters to be understood carefully and adopted scrupulously in penal reform.

Let us trace towards the origin and history of reformation in prisons.

The Reformation of the Penal System:–

From the above, we have seen that though of punishment has been based on the three principles of retribution, deterrence and Reformation in actual practice the Punitive and deterrent ideas of prison treatment have almost completely destroyed the effects of the few influences that are called reformative. For more than a century many jail reforms committees have been occurred for the reformation of the penal as well as reformation of prisoners, but they remained in books itself, if those suggestion have been implemented or in practice, their would be tremendous changes in penal as well as reformation of prisoners.

This can be effected by the principle of individualization. By this is meant the adjustment of the methods of treatment to the needs and requirements of the individual offender. Individualization, therefore, means an intensive study of the individual offender for the purpose of finding out the specific conditions, circumstances, processes and mechanisms involved in criminality. The mechanical treatment of any and every criminal in the same way must give way to the psychological and sociological which would naturally vary with each individual. Again, persistent efforts should be made to encourage contacts between criminals and other people, for criminally which is the product of the isolation of a number of persons from law-abiding people cannot be cured by more isolation.

Parole:–

Parole is a social technique by which these conditions and limitations are placed and by which the prisoner is prepared for his return to the community.
Parole solves the grave problem of control of the prisoner without the evils of too long confinement. It is the inescapable outcome of society’s condemnation of the deteriorating effects of imprisonment. In that sense it is a complete repudiation of the prison methods now in force.

How does parole work? The first desire on release of the hardened offender is to rejoin his old gang. Parole prevents this by dictating the place where the released prisoner shall live. An idle man’s mind is the devil’s workshop. Parole not only finds the released prisoner a job, but compels him to work at it, and if he refuses to do so, sends him back to the institution. While resuming his criminal career the average criminal seeks to hide from the eyes of authority. Parole makes this impossible by compelling him to keep in close contact with the board of parole. Numerous other restrictions are placed upon his daily conduct. The parole authorities see that he does not take to drink, they visit his home and discover whether he is providing for his family, they call upon his employer to find out whether he is regularly on the job... In short, parole protects and promotes the interests of both the criminal and the community by its close and vigilant watch. It a constructive process of social rehabilitation.

To work successful, parole depends upon the following:-
1) Careful diagnosis of prisoners by experts.
2) Selection for parole of only those whose release will not outrage the sense of justice of the community form which they come.
3) Selection for parole of only those inmates the study of whom reveals that they will probably do well on release.
4) Securing of proper employment before the convict is paroled.
5) Placement in proper surroundings. It would be futile to release a prisoner if he is put back in the same filthy and in sanitary area which was a breeding place for crime. There must be some social centers, philanthropic institutions, etc., to help the prisoner to return to society.
6) Preparation of the parolee for parole.
7) Careful follow-up is absolutely necessary. It would be convenient arrangement for one parole officer to supervise all parolees who reside in his territorial division.
8) Co-operation with private and public social agencies.
9) The constituency of the parole board. It should be composed of men of intelligence and integrity who have sufficient spare time for their multifarious duties.
10) Powers of the parole board. The responsibility for parolees should rest upon this board which should be given wide powers to impose terms and conditions of parole and to revoke for violations thereof.

The mistaken idea that parole is a form of leniency has led to the fallacious conclusion that it should be withheld from those prisoners who have committed the more serious offences, whereas the truth is that the more dangerous offenders are the ones against whom the community needs most to be protected by a limited form of release and by close supervision after release. The only sane and safe method of making decisions in case of parole is to rely on the cold record before the board, but more weight must be given to the post-criminal than to the institutional record.

Parole is "conditional liberation." When the parolee violates any of the conditions of his parole or commits a new crime, all that is required as the basis of a warrant for re-arrest by the board of parole is reasonable and convincing proof, usually obtained from a parole officer, that he has offended. As soon as convenient after his return to the institution, a hearing is held to decide whether the criminal should be reinstated on parole or sent back to prison.
Probation.

Probation is a method of treatment by which the courts, through the personal influence of their agents, seek to supervise and rehabilitate convicted offenders before, and instead of, committing them to custodial institutions. Thus it differs from parole in that it is applied to offenders before they are sent to an institution; also in that instead of casting the criminal into prison, the court in some jurisdiction retains the control for as long as a period as it sees fit to be the last rung in the correctional ladder of which probation may be the first.

Probation avoids certain disadvantages of imprisonment. The latter generally has frustrative and disintegrating effects upon individual personality, because all the criminal's family ties, sympathies, and associations are completely cut off. Another disadvantage is that life in a penal institution and the administrative organization which provides him, without any effort on his part, with food, shelter and clothing, may have the effect of weakening his initiative to win these things for himself later on in the outside world. During probation, on the other hand, the probationer is under the supervision of a trained probation officer who is qualified to assist in bringing about family adjustment which may be needed, who can give sound advice in matters of education and employment, who is familiar with the health resources of the community and can marshal them on behalf of his clients and who can effectively guide his charges in leisure-time activities and in self-improvement. Broadly and briefly speaking, it involves the suspension of the case under consideration for a period imposed by the court.

Upon the right selection of candidates largely depends the effectiveness and utility of probation. As a method of treatment it is not well adapted for any and every delinquent person, but the evidence of American prisons makes it clear that with the exception of persistent drunkards, chronic gamblers, sex perverts and the feeble-minded, the large mass of persons coming to count form fit subjects for probation. Perhaps its greatest contribution to the court as well as to the general
The science of penal and correctional treatment is that it enables the court to throw a searchlight, before passing sentence, upon the individual, social, cultural and moral background of the criminal, his family interactions and relations to the community as a whole. It is able to do this because its officers can win the criminal’s confidence and so get him to answer questions of a personal, even a secret nature.

The success or failure of probation depends above all upon the quality of probation officers chosen. In America the first probation officers were volunteers. The work with delinquents, however, requires both continuity of effort and specialized training which few volunteers have the time to acquire. A well-paid, well-supervised and professionally trained staff seems, therefore, to be called for. In a country like India, however, owing to lack of public funds, the system of voluntary service is day by day gaining ground and receiving recognition. The method of employment of these officers varies, but the practice of appointment by the court seems to be the most common, the simplest and most logical. Let it not be forgotten that probation demands officers who have a mixture of kindness and authority, who combine sympathy with insight, who possess an understanding of human nature capable of detecting both good and evil tendencies, who have tact and patience and a wide knowledge of life and whose personality is strong enough to win respect and exercise a beneficial influence upon the probationers. As has been said, what the teacher is to the educational system, the probation officer is to the probation system.

Origins of Reformation in Prison

During the Eighteenth century mainly two prison reformers, namely, John Howard (1726-1790) and Jeremy Bentham (1748-1832) both opposed against traditional punishment and expressed that institutions could be built that would rehabilitate criminals and prevent crime. This resulted into the rise of the penitentiary by providing an essential belief that properly designed prisons might transform felon into productive citizens.'2
Howard on Reformation of Prisoners:

Howard made a series of inspection of his county prisons as county sheriff of Bedfordshire from 1773 onwards. He discovered that many acquitted prisoners were detained for failure to pay discharge fees. His motive lay not in his efforts to publicize prison abuses but in his systematic statistical reporting and comprehensive proposals for change. Howard advocated solitary confinement because he was convinced of a convict’s process of reformation in terms similar to his own spiritual awakening. Howard hoped to translate the ascetic vigil of the priest into disciplinary regiment for the criminal. He postulated that cut-off from all permission and influences, the prisoners would have no choice but to confront his degradation and listen to the voice within. His plans for better prison food, clothing and hygiene were but part of a programme intended to reset minds as well as to discipline bodies. Although Howards humanitarian reforms were sometimes criticized as too expensive and lenient he was regarded as one of the great reformers of prison because his proposals seemed both scientific and practical.

Bentham On Reformation Of Prisoners

The utilitarian philosopher Bentham viewed crime as a result not of sin but of wrong calculation, Bentham abhorred the existing jails because in his view, the punishment they imposed was not appropriate to the justifiable end of teaching inmates that crime did not pay. According to him, prison conditions were sometimes too harsh and sometimes too lenient and they varied from institution to institution and became socially inefficient and thus immoral also. Although, he rejected solitary confinement considering cost involvement but Bentham supported Howard in tireless campaigns to promote prison reforms and he showed the faith that criminals could be rehabilitated through perfectly planned discipline. Neither Howard nor Bentham lived to see their visions completely implemented in any particular institution, but many of their ideas took concrete form in the 19th century in England and later on in many other countries including India.
Development of Reformatory Measures

The American Prison System:- The Pennsylvania System:- If we trace back to historical developments in correctional practice, we can notice that penitentiaries are an American invention which arose in the early years of American history.13 The first in itself of the modern prison was the walnut street prison opened in Philadelphia in 1776, under the Pennsylvania Quaker’s Movement,14 which took steps in remodeling of Philodelpian prison on a new pattern. It provided in detaining each prisoner in an individual cell, i.e. solitary system, making him live in complete silence, expecting that he would there by find opportunity for reflecting over his wrongful act or omission and for coming to repentance, that is, to bring about quick reformation in them because of, extreme deterrent effect. One great advantage of this system is that, it avoided mixing of habitual offenders associating with first offenders and of offenders with more serious offences mixing with those whose offences are less serious. But complete segregation of prisoners in isolated cells without any work brought them untold miseries and a large number of inmates died due to unbearable monotony of prison life. The inmates were subjected to prayers and appropriate discourses so that they behaved themselves with greatest propriety and decorum.15

The Auburn System

In 1818-19, at auburn in New York State a model prison on Pennsylvanian pattern was opened, and a few years later another prison by name Sing - Sing prison was opened in the same state. The exiting feature of this system was that prisoners were to work in shops under a state rule of silence, so the Auburn and sing. Sing system was sometimes refereed to as a silent system. This prison had walled institutions in which inmates were confined in multi-tiered cellblocks. This system provided prisoners to work together and have their meals in a common dining room, but the prisoners were not allowed to talk or communicate with each other, so nearly total silence among inmates was maintained, wearing striped uniforms, lock-step marching, and severe punishment for violations of rules.
These institutions provided the architectural model for nearly all penitentiaries and reformatories constructed in the United States. Donald Taft characterised the Pennsylvanian system as the separate system and the Auburn system as the silent system.

**The Elmira Reformatory**

In the year 1876, the Reformatory system was adopted in the Elmira Reformatory in New-York. This system was totally different from the Pennsylvanian and Auburn system. This Reformatory system provided for indeterminate sentence, parole and probation. The classification of inmate was introduced for the purpose of treatment in prison. Therefore the prisons were no longer retained as the dump-houses for inmates but were used as places of industry to train inmates for skilled work, which served a dual purpose. Firstly it helped in the rehabilitation of prisoners and secondly, work in prison kept inmates engaged during their stay in prison with the result they were mentally and physically fit and prepared to return as a useful member of society after their release.

It was in the year 1930 that individualization of prisoners became the object of punishment and hence the inmates were graded not according to their age, sex or dangerousness but according to their individual needs and chances of rehabilitation.

In 1933, which marked the beginning of reformative era in the American prison system by the opening of Reception Centre at Illionis. The cells in this prison were airy, well ventilated and equipped with adequate arrangement of lights. The conditions of health and sanitation were considerably improved and inmates were provided facilities for reading, writing and schooling. Adequate arrangements for physical exercise and recreation of inmates. The inmates were
left to dine together in a common mess and they could meet their relatives and friends on certain fixed days. The sentence of solitary confinement was abolished and tried to narrow down the gap between the outside free-life and the life inside the prison to the maximum possible extent.\textsuperscript{16}

**Prison System in England**

Earlier in England also, the prisoners were treated brutally and punishments were barbarous in nature. John Howard in his famous work entitled, ‘The state of Prisons’ has described the awful conditions of British prisons during the eighteenth century. The prisons were damp and vermin infected and were the places full of filth, corruption, sex-indulgence and all sorts of vices.

Beccaria, a famous European Criminologist who raised a voice against the nature of punishment given, that of harsh and painful treatment to inmates in prisons. Pope XI also supported towards the cause of human treatment to inmates in prisons. He established a cellular prison is Ghent with in his Papal State. This gave a chance for criminals to spend some time in penance and reform themselves to return as a law-abiding member of society. This gave support to the penitentiary movement in England.

During 1776 at Hersham the first penitentiary was established with solitary cells, where inmates were kept in complete isolation, enable to think over their past crime record and to reform themselves for future life. The prisoners were given hard manual work during days hours to keep them physically and mentally fit.

The Act of 1778 passed by British parliament made an landmark for beginning of prison reforms in England. The Act showed an interest relating to prison reforms. The working system of prison was restructured, where the inmates were put to work during day and kept in solitary cells during nights. By 1833, the inmates were allowed to meet their relatives and friends.
However the prison labour system has been introduced already. Labour work such as working the tread-mill, crank, stone breaking. In some prisons, however there was organization of productive work for profit, along with a system of rewards for the work done. Since 1877 the English prison has gradually developed into the “system of production for state which obtains today”.

Simultaneously, Individual treatment took place, where his aptitude is determined and then the prisoner is given such work as helps him after release. As the time gone, educational work to the prisoners, such as evening classes, where voluntary teachers teach a number of useful, instructive and moralizing subjects.

Classification of offenders started in practice, first offenders and casual offenders are usually kept in the prison at Maidstone, Recidivists are kept at Chelmsford Prison. Habitual Criminals sentenced to preventive detention are confined at Lewes prison.

Sir Lionel Fox, one of the greatest prison reformers of the present century in England, whose contribution to the field of prison reforms in England is so great that most of the modern techniques of prison administration owe their origin to him. He was the secretary and later, the chairman of the prison commission. In his commission firstly, he suggested that public should always be kept well informed about the working inside the prisons through intensive reporting and arranging frequent visits of pressmen and other social workers in prisons. Secondly he stressed that prison administration should aim at reconciling the conflicting objectives of deterrence and reformation.

Sir Lionel Fox, further suggested that the deterrence and reformation, can only be restructured if it is accepted that “the element of deterrence in punishment lies fundamentally not in severity of punishment but in certainty of detection and punishment”. Thus in his view, the deterrent inside the prison is to be found in the
fact of imprisonment and not in the severity of the prison regime". At Present prison system in Britain may be summarized as follows:-(a) The prisoners are classified into different categories through Group therapy Method, (b) The prisoners are given vocational training inside the prison for their physical, moral and mental upliftment (c) Reformation of the prisoner is sought within the community itself (d) After the prisoner's release from the prison, his rehabilitation and socialization is entrusted to After-care institutions or voluntary social service organization.(e) Prisons are treated as minimum security institutions wherein basic rights of prisoners should be duly recognized.

DEVELOPMENT IN INDIA

I. Early Period:

The Penology is as old as society in India. It was well known in the name of Danda-Niti which literally means principle of punishment. Manu, the great law-giver of India, emphasized that Danda was created as a derivative of Dharma. Nigam expounds the view that "while criminal science or criminology is a modern growth in the west, it would be heartening to know that it was fully developed subject of study in our country even before the dawn of the Christian era". In the works of Bana, we find indirect reference to crimes, rigorous imprisonment, amputation of limbs and execution. The smriti writers were aware of the complexity of human nature and they paid due attention to the individuality of offenders in punishing him. According to Brihaspati, a gentle admonition should be given to a man for light offence. Kautilya advised the king to award punishment which should neither be mild nor severe. In Brahmbaibrata puran, Lord Mahadeva told Brahma that if people commit offence, it is the duty of pious man to forgive him. Thus, the first phase of ancient civilization in India when Dharma was supreme, the offender was shown maximum tolerance, but that was gradually ousted by political authority of the King in the middle ages.
II. Medieval Period

The Muslim law was prevalent in the medieval period in India. It is revealed that imprisonment as a form of punishment was not recognized. It was Abul Fazal, one of the ministers of Akbar, who suggested that Muslim rulers could award imprisonment to offenders and we found that numbers of forts were used to confine offenders. Akbar's introduction of imprisonment in his administration of criminal justice was a great departure from the Muslim law. This type of imprisonment found a very favorable climate and existed under Zahangir under the name, 'Justice' with high sensitivity to humanness, compassion, kindness and noble qualities of head and heart. Zahangir was followed by Shahzahan who himself spent his last eight years as a captive of his son in the Agra Fort.

In the medieval period, the administration of criminal justice became worst "where the offender was deprived of his liberty, and was physically forced on the point of pain and torture to show obedience to the dictates of the states. Trusts in the person of the offender disappear. Hardly any faith is left in the power of Dharma of religion, to reclaim the offender to social ways of life."

III. British Period

The British rule in India marked the beginning of penal reforms in this country. The British authorities made strenuous efforts to improve the condition of Indian prisons and prisoners. They introduced radical changes in the then existing prison system keeping in view the sentiments of the indigenous people.

On December 31, 1600, a company was incorporated in England by a Charter of Queen Elizabeth, which is known as East India Company. The Kings charter of 1661 extended the jurisdiction of the company officers to include
Indians. A report of 3rd March 1665, submitted by Hamprey Cook recorded the following observation:

"I have enordered a prison to be made to keep all in quietness, obedience and subjugation, this people generally been hereditigious."28 In this period the jails were much in demand and remained as poorly administered as in Mughal regime.29

The Charter Act of 1726 proved the company’s jurisdiction on a more satisfactory basis. On 15th August 1772, the committee of circuit with Warren Hastings as president drew up a plan, which was adopted by the committee on 21st August for Administration of Criminal Justice. There was no centralized system of prisons and these existed as an adjunct at the Foujdar Tana and the criminal court of the district.

Misra writes, “A person was attached to each Fouzdari Thana as well as to the Criminal court of the district under the superintendence of the Fouzdar. The Fouzdar was intended only for a temporary stay of the prisoner who was to be presented to the court and then put in the criminal jail after his commitment. As superintendent of prisons, the Fourzdar was to maintain regular accounts of prisoners for the running of and supervision of the Daroga or judge of the court.”30

The Regulation of December 3, 1790, where the management and control of the jails was handed from Indian to European hands and the magistrate was put in-charge of his jails in district. Commenting upon the jails, Comwalis said that humanity cried for a remedy and he told the court of directors in December 1792, that he had resolved to rebuild all the jails in the province, in such a style that health and morals as well as safety of the prisoners would be secured.31

Under the control of East India Company, there were 143 civil jails, 75 criminal jails and 68 mixed jails, about the total accommodation of 75,100, which were built in Bengal, North West Provinces, Madras and Bombay.32
In 1835, Macaulay, adversely commented upon the conditions and situations prevailing in jails in this way:

"Whatever I hear about the Indian prison satisfies me that their discipline is very defective... Hundreds of the worst and most desperate criminals are assembled there. They are collected in one great body. They are, therefore, quite able when their passions are inflamed to overpower any resistance with those who are placed over them can offer to their fury. It is only a few months since they murdered the superintending Magistrate. At present, no visitor can enter without danger and this evil exists at the very spot at which the greatest quality of European intelligence and power is concentrated at the seat of the Government, under the very eyes of this supreme authority... When such is the state of the jail at the Presidency, we can hardly suppose that a good system is followed in the Moffusil, and all I can learn on the subject leads me to believe that the prison of India generally require a great improvement. What I would suggest is that a committee should be appointed for the purpose of collecting information as to the state of Indian prisons and of preparing an improved plan of prison discipline."

During the reign of East India Company (1818-1857) R.C. Majumdar and Kalikinkar Dutta on the jail system of India observed that, "The early Indian jail system was like English Prototype, insanitary, demoralizing and nondeterrent."

The nineteenth century witnessed the growth of English law in India. In 1833, Lord Macaulay persuaded the House of Commons, for codification of Indian Laws. He prepared the draft of the Indian Penal Code, which became law in 1860. The same was followed by the criminal procedure code in 1861.

In the year 1836, in India which witnessed the question of prison reforms. Lord Macaulay. The Governor General in Council, on January 2, 1836, appointed a Prison Enquiry Committee. In its committee report, it criticized the prison system. The insanitary condition of prison life was a condemnable feature. That
was responsible for cholera which swept away so much of the jail population. Prison officials were corrupt, lack of warders. The prisoners were left without proper guidance. There was not even separate ward for women prisoners; the prison hospital was so miserably fashioned that male prisoners compartments were separated from those of the women by a bare iron railing.

The second Jail Enquiry Committee was appointed in 1862. It emphasised the need for proper food and clothing for the prison inmates and medical treatment of ailing prisoners. Certain recommendations were also made by the third Jail Enquiry Committee in 1877 followed by further suggestions in 1889 and 1892. Due to the result of these recommendations, the prison Act of 1894, brought uniformity in the working of prisons in India. Its also empowered the then existing provinces to enact their own prison rules for the prison administration.

The act provided for classification of prisoners, and sentence of whipping was abolished. The medical facilities were further improved and better amenities were provided to women inmates to protect them against contagious disease. Despite these changes, the prison policy as reflected through the Act, by and large, remained deterrent.

During 1907 onwards, juvenile and young offenders were segregated from hardened adult offenders. A number of reformatories and Borstal institutions modelled on British pattern were established for the treatment of offenders.

**Indian Jails Committee 1919-20**

The Indian Jails Committee 1919-20 headed by Sir Alexander Cardew, was to suggest measures for prison reforms. The committee visited prisons in Burma, Japan, Philippines, Hong Kong and Britain besides the Indian Jails, and came to
the conclusion that prisons should not have deterring influence but they should have a reformative effect on inmates. The committee recommended for reformative approach to prison inmates and discouraged the use of corporal punishment in Jails. It also suggested prison inmates some types of productive work so as to bring about their reformation. The committee also emphasized the need for after-care programme for the released prisoners for their rehabilitation. It was the first time in the history of prison administration in India that "reformation" and 'rehabilitation' of prisoners were identified as the objectives of prison administration.

The jail committee, as a measure of prison reforms recommended that the maximum intake capacity of each jail should be fixed, depending on its shape and size. For the first time in 1949, Pakwasa committee accepted the prisoners as labour for road work, without any supervision on them and system of payment of wages to inmates for their labour came into practice. Suitable reduction in the period of their sentence was introduced to the jail inmates who behaved well during their term of imprisonment, which can be considered as good time laws. The ultimate objects of these, reforms were to protect the society from criminals, to reform the offenders, to deter them and to extract retribution for criminal acts to the satisfaction of the society.

IV. Post Independence Period

After the Indian Independence, the constitution of India placed "Jail" along with police and law and order in the state list of the seventh schedule. On account of which, union government had literally no responsibility of modernizing prisons and their administration.

The treatment of prisoners on psychological and psychiatric basis received some attention as a measure of prison reforms during 1950's. As G. B. Vold
rightly says, "The rehabilitative activities of the modern prison are generally of two kinds, namely; 1) Psychological and Psychiatric treatment; and 2) Educational or Vocational training programmer. The case-work service is the operating instrumentality that makes these more specialized forms of treatment effective in practice."

The government of India invited Dr. W. C. Reckless, in 1951 under the Technical Assistance Programme, to lend expertise in criminology and correctional administration for training a batch of jail officers and to advise the government of India for furthering development of correctional administration. In his report he recorded the scope of the mission;

"Although the mission was designed primarily for the training of jail officers in progressive methods of jail administration, a secondary aspect of the mission, namely, the stimulation of local and national interest in the newer approaches to the treatment of adult and juvenile offenders has loomed very large."

Other than this mission, Dr. Reckless report has some valuable recommendations, both National and State level, for improving correctional administration in India, some of the major policy guidelines regarding reformation and rehabilitation of prisoners were accepted:-

1) The correctional services should term an integral part of the Home Department of each state and a Central Bureau of Correctional Services should be established at the Center.

2) The reformatory methods of probation and parole should be used to lessen the burden on prisons.

3) State after- Care units should be set up in each state.

4) Solitarily confinement as a mode of punishment should be abolished.
5) Classification of prisoners for the purpose of their treatment was necessary.
6) The state Jail Manuals should be revised periodically.

At the same time the Government of India called a conference of the Inspector General of Prisons at Bombay on March, 1952. The conference asked the Government of Bombay to set-up a committee and take up the revision of Jail Manual and the central Act relating to prisons. The committee took its first meeting in June 1957 at Bombay followed by twelve other sittings and visit to twenty-eight correctional institutions. The committee prepared a model prison manual and its report was circulated to all the State Governments, but till 1980, only four states namely, Andhra Pradesh, Karnataka, Kerala and Maharashtra had revised their jail manuals in accordance with the model prison manual.

Despite the reformative measures listed above, the general condition of prisons in India is still far from satisfactory. The social contempt for prison life keeps all sections of society uninformed about what goes on inside the prison cells. The press and media seldom highlight the empirical relations of prison life and public opinion seems little concerned about modernizing the prisons.

**All India Jail Reforms Committee –1980**

The Government of India appointed an All India Jail Reforms Committee in 1980 with Justice A. N. Mulla as its chairman. The committee suggested setting up of a National Prison Commission as a permanent body to bring about modernisation of prisons in India.38

The Mulla Committee recommended segregation of mentally disturbed prisoners and their placement in mental asylums. It also recommended for classification of prisoners on scientific and rational basis. Some other recommendations of the Mulla Jail Committee are as follows:-

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1) The conditions of prisons should be improved by adequate arrangements for food, clothing, sanitation, ventilation etc.

2) The prison staff should be properly trained and organised into different fields of reformation and corrective measures.

3) After care, rehabilitation and probation should constitute an integral part of prison services. Unfortunately probation law is not being properly implemented in the country.

4) The media and public men should be allowed to visit prisons and allied institutions periodically so that public may have aware about conditions inside prisons and be willing to co-operate with prisonofficials in rehabilitation work.

These are some of the recommendations made by Mulla Jail committee towards the reformation of prisoners.

After this, the National Human Rights Commission (NHRC) after gaining familiarity with problems of prisoners in the prisons in India, generally took initiation to formulate a national prison law by consolidating the existing prisons law framed during British period. A draft Bill (INDIAN PRISONS BILL, 1995, proposed) was circulated to all the states in India during February 1999 regarding formulation of comprehensive law in prisons. The NHRC submitted its recommended Bill for adoption by the government of India which is still under consideration of the law ministry.

Recently, the West Bengal Legislative Assembly passed “The West Bengal Correctional Services Act, 1992”, the first of its kind in India characterizing prison administration as correctional services accepting reformation of prisoners as the object of prison law. This kind of Correctional Services Act is necessary for all states, for the reformation and rehabilitation of prisoners.
The present study attempts to direct and focus attention on the treatment of the individual inmates. Prison institution should be free from punitive acts. The criminal should be made to regain his self-awareness before his discharge day.

Nevertheless, to study is to know and to know is to understand, when we know and understand we simply pass it on to others at no cost. In similar ways, what we may strive is to know and understand the offender and his social backwardness and try to find a way to assist him without expecting in return from him.

References


3) Mueller Gerhard O.W., Punishment, Correction, and the Law, Edited by Harvey S Perlman and Thomas B Allington, -The Tasks of Penology, University of Nebraska Press, Lincoln, Third Printing (1970), P.50,


13) Quoted from J.P.S sirohi, Criminology and Criminal Administration, 1992, Allahabad Law Agency., Allahabad.

14) Quaker’s were a religious sect who condemned inhumane treatment of offenders on theological grounds.


18) Ibid . P.102.


20) Ibid. P-113.

21) Lionel, Fox., studies in Penology (Published by the International Penal and Penitentiary Commission in 1964.P.1873).


23) Manusmriti, VII-3, 4,15,18,22.


